



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2019-0289; FRL-9994-78-Region 7]

Air Plan Approval; Missouri; Revision to Sulfur Dioxide Control Requirements for Lake Road Generating Facility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a State Implementation Plan (SIP) revision submitted by the State of Missouri on November 2, 2018. The revision replaces a Consent Decree in Missouri's SIP with an Administrative Order on Consent (AOC) between the Missouri Department of Natural Resources (MoDNR) and Kansas City Power and Light (KCPL). The EPA is also proposing to approve an amendment to the AOC. This action strengthens Missouri's SIP by replacing an outdated Consent Decree with an AOC and its Amendment that reflect current operating conditions at the facility, and does not result in an increase in sulfur dioxide (SO₂) emissions from the Lake Road Generating Facility.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2019-0289 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Written Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jonathan Meyer, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551-7140; email address meyer.jonathan@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to the EPA.

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I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2019-0289 at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. What is Being Addressed in this Document?

The EPA is proposing to approve a SIP revision submitted by the State of Missouri on November 2, 2018. The revision consists of an AOC between the MoDNR and KCPL that limits emissions SO₂

from KCPL's Lake Road Generating facility in St. Joseph, Missouri, and an Amendment to the AOC. The AOC and its Amendment replace a Consent Decree in Missouri's SIP and strengthens SO₂ control requirements for KCPL's Lake Road Generating facility. This action strengthens Missouri's SIP by replacing an outdated Consent Decree with an AOC and its Amendment that reflect current operating conditions at the facility and does not result in an increase in SO₂ emissions from the Lake Road Generating Facility.

A. 1997 Violation of the 1971 SO₂ National Ambient Air Quality Standards (NAAQS)

In 1997, a monitor in St. Joseph (Buchanan County), Missouri measured a violation of the 1971 24-hour SO₂ NAAQS. At the time of the 1997 violation, Buchanan County was designated as "Better than National Standards" (equivalent to "attainment") for the 1971 24-hour SO₂ NAAQS. To address the violation, the State of Missouri and the St. Joseph Light and Power (SJLP) Company entered into a Consent Decree that required SO₂ control measures at the SJLP Lake Road power generating facility, hereinafter referred to as the "2000¹ Consent Decree". The 2000 Consent Decree was submitted by the State of Missouri in order to maintain attainment of the 1971 24-hour SO₂ NAAQS and was not

¹ The EPA is referring to the Consent Decree as the "2000 Consent Decree" to be consistent with the State's November 2, 2018, SIP revision submittal. The 2000 Consent Decree was entered by the Circuit Court of Buchanan County, Missouri, on May 25, 2001.

submitted because of a SIP call. On November 15, 2001, the EPA approved the 2000 Consent Decree as a revision to Missouri's SIP. (66 FR 57389, November 15, 2001).

B. Designation of Buchanan County for the 2010 SO₂ NAAQS

On June 22, 2010, the EPA established a new 1-hour SO₂ standard ("the 2010 SO₂ NAAQS") and revoked the existing 24-hour and annual primary SO₂ standards. (75 FR 35520, June 22, 2010, at 75 FR 35592). The EPA directed States to continue implementing any attainment and maintenance requirements of the 1971 24-hour SO₂ NAAQS until the requirements were subsumed by any new planning and control requirements associated with the 2010 SO₂ NAAQS. (75 FR 35520, June 22, 2010, at 75 FR 35580). Accordingly, areas designated as nonattainment for the 2010 SO₂ NAAQS or areas that do not meet the requirements of a SIP call for the 1971 SO₂ NAAQS remain subject to the 1971 SO₂ NAAQS until the area submits, and EPA approves, an attainment plan for the 2010 SO₂ NAAQS. See 40 CFR 50.4(e). However, the EPA also stated that any existing SIP provisions under Clean Air Act (CAA) sections 110, 191 and 192 for the 1971 24-hour SO₂ NAAQS remain in effect. (75 FR 35520, June 22, 2010, at 75 FR 35581).

On January 9, 2018, Buchanan County was designated as Attainment/Unclassifiable for the 2010 SO₂ NAAQS (83 FR 1098, January 9, 2018) and therefore the State of Missouri was not required to submit a SIP providing for attainment of the SO₂ NAAQS under sections 191 and 192 of the CAA. However, because the 2000 Consent Decree was approved pursuant to section 110 of the CAA, the provisions of the Consent Decree remain in effect notwithstanding EPA's revocation of the 1971 24-hour SO₂ NAAQS and designation of Buchanan County as Attainment/Unclassifiable for the 2010 SO₂ NAAQS.

C. 2015 Administrative Order on Consent and 2018 Amendment

KCPL acquired SJLP's Lake Road facility in 2008. On March 30, 2015, KCPL notified the MoDNR of its intent to cease the combustion of coal in Boiler No. 6 at the facility by April 16, 2016, to comply with the Mercury Air Toxics Standards rule, 40 CFR part 63, subpart UUUUU. KCPL also requested to use natural gas instead of coal as the primary fuel and to designate No. 2 fuel oil the secondary fuel of Boiler No. 6.

Because the 2000 Consent Decree stipulated the type of fuel to be used in each combustion unit, including Boiler No. 6, MoDNR and KCPL entered into an AOC on March 30, 2016,

(hereinafter referred to as the “2015² AOC”) that included the substantive requirements from the 2000 Consent Decree and revised the fuel requirements for Boiler No. 6. The 2015 AOC did not revise the SO₂ allowable emission rate of 1,400 pounds SO₂ per hour (lbs SO₂/hr) established in the 2000 Consent Decree for Boiler No. 6; therefore, the EPA’s proposed approval of this SIP revision will not result in an increase in allowable SO₂ emissions.

On June 13, 2018, the MoDNR and KCPL revised the 2015 AOC to require low sulfur coal as the primary fuel in Boiler No. 5, rather than a blend of high and medium sulfur coal as required by the 2000 Consent Decree and the 2015 AOC. The 2018 AOC Amendment did not revise the SO₂ allowable emission rate of 453.26 lbs SO₂/hr established in the 2000 Consent Decree for Boiler No. 5; therefore, the EPA’s proposed approval of this SIP revision will not result in an increase in allowable SO₂ emissions.

Section 110(l) of the CAA prohibits the EPA from approving a SIP revision that interferes with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. The MoDNR anticipates that the 2015 AOC and 2018 AOC Amendment will result in

² The EPA is referring to the Administrative Order on Consent as the “2015 AOC” to be consistent with the State’s November 2, 2018 SIP revision submittal. The 2015 AOC was signed by the parties in 2016.

decreased SO₂ emissions that will further assist with maintenance and attainment of both the 1971 and 2010 SO₂ NAAQS.

While the 2015 AOC and 2018 AOC Amendment do not reduce allowable emissions from the Lake Road Facility, the use of low sulfur coal as a primary fuel for Boiler No. 5 and natural gas as a primary fuel for Boiler No. 6 will result in a reduction in actual SO₂ emissions. The MoDNR included an analysis of SO₂ emissions from the Lake Road facility between 2002 through 2017 and found that SO₂ emissions have decreased by 89 percent from 2002 through 2017, attributable to the 2000 Consent Decree, and more recently, to the 2015 AOC. As such, the MoDNR has demonstrated, and the EPA proposes to conclude, that the SIP revision is in accordance with the requirements of section 110(1) of the CAA.

A comparison of the requirements of the 2000 Consent Decree, the 2015 AOC and the 2018 Amendment can be found in the Technical Support Document that is included in the docket.

III. Have the Requirements for Approval of a SIP Revision Been Met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this

SIP revision from July 30, 2018, to September 6, 2018, and received zero comments. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

IV. What Action is EPA Taking?

We are proposing to approve replacing the May 25, 2001, St. Joseph Light and Power Consent Decree with the 2015 AOC and 2018 Amendment between MoDNR and KCPL. We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

V. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Missouri Regulations described in the proposed amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has

demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 10, 2019.

James Gulliford,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

Part 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart-AA Missouri

2. In §52.1320, the table in paragraph (d) is amended by:

- a. Revising entry "(17)" and;
- b. Adding entries "(32)" and "(33)" to the end of the table.

The revision and additions read as follows:

§ 52.1320 Identification of plan.

* * * * *

(d)* * *

EPA-APPROVED MISSOURI SOURCE-SPECIFIC PERMITS AND ORDERS

Name of source	Order/Permit number	State effective date	EPA Approval date	Explanation
* * * * *				
(17) St. Joseph Light & Power SO ₂	Consent Decree	5/21/2001	11/15/2001, 66 FR 57389 and [Date of publication of the final rule in the Federal Register], [Federal Register citation of	Replaced on [Date of publication of the final rule in the Federal Register] with (32) and (33).

			the final rule]	
* * * * *				
(32) Kansas City Power and Light - Lake Road Facility	Administrative Order on Consent No. APCP-2015-118	9/27/2018	[Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule]	
(33) Kansas City Power and Light - Lake Road Facility	Amendment #1 to Administrative Order on Consent No. APCP-2015-118	9/27/2018	[Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule]	

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[FR Doc. 2019-12539 Filed: 6/14/2019 8:45 am; Publication Date: 6/17/2019]